

As director of health and safety for Emery, Lauriski had a fairly broad knowledge of the presence of MSHA and the UMWA on mine property (Tr. 261). Lauriski has known Tom Rabbitt for eight or nine months (Tr. 261). Lauriski understood Rabbitt was there to work on the Wilberg investigation (Tr. 261, 286). Significant delays have occurred during the lengthy investigation into the Wilberg fire (Tr. 261).

On two occasions during the delays of the Wilberg disaster investigation, Rabbitt went underground in the Deer Creek mine to look at a two entry mining system (Tr. 262). He also entered the Cottonwood mine in late 1985 for the same purpose (Tr. 262). He has also been underground in the Wilberg mine and participated in the recovery operations (Tr. 262). Further, the witness does not dispute the claim that Rabbitt accompanied the inspectors on more routine inspections (Tr. 286).

Witness Lauriski was aware of Rabbitt's letter in January dealing with the seals (Tr. 263). The company thought Rabbitt was reiterating positions already decided on by the company (Tr. 264). The company was irritated over the second letter (Tr. 264).

William Ponceroff, called as an adverse witness, indicated that he is the supervisor at the MSHA field office in Orangeville (Utah) (Tr. 300).

Witness Ponceroff, a person experienced in mining, holds a degree in safety (Tr. 301-303). The field office, with six inspectors, has ten mines under its jurisdiction (Tr. 303).

At the time of this incident MSHA inspector Boston called Ponceroff and advised him that mine management refused to permit a UMWA representative to travel with him unless he signed a waiver (Tr. 305, 306). Ponceroff was not familiar with the waiver form nor did he attempt to learn about it. Abatement time was not discussed.

In a similar incident about March 5, 1986 MSHA inspector Baker had not taken any action (Tr. 306, 307). At a staff meeting a few days later the issue was discussed. It was decided that if any union representative on an international level wanted to accompany the inspector the company was to have equal representation. If the operator refused then a citation was to be issued. If the operator failed to comply then a (b) order would be issued but it would be a no-closure type of order (Tr. 309, 310). The foregoing policy resulted in the instructions given to Boston on April 15, 1986 (Tr. 310).

When Boston called him, Ponceroff was not aware Rabbitt had previously signed any release forms. In any event, that fact would not have affected his judgment (Tr. 310).